

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BALTIC AUTO SHIPPING, INC.,

Plaintiff,

v.

MICHAEL HITRINOV, et al.,

Defendants.

:
: Civil Case No. 11-6908
: (FSH)

: **ORDER**

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: Date: January 16, 2015
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HOCHBERG, District Judge:

This matter comes before the Court upon a Motion for a Temporary Restraining Order and a Motion for Preliminary Injunction by Defendants Empire United Lines Co. and Michael Hitrinov to enforce a 2011 settlement agreement [Dkt. No. 5 & 8]; and for good cause shown.

Plaintiff filed an admiralty claim on November 23, 2011 and a summons was issued to Plaintiff from the Clerk of the Court on December 1, 2011; four days later, before any proof of service was filed, the parties stipulated to dismissal on December 5, 2011; on December 7, 2011, the Court entered an order stating: “if the settlement is not consummated, the Court will entertain an application solely to enforce the terms of the settlement agreement.”

Three years after dismissal and consummation of the settlement, Defendant sought an order to enforce the settlement agreement and an injunction restraining Plaintiff from proceeding with an action before the Federal Maritime Commission. However, the Court’s 2011 Order did not retain jurisdiction indefinitely. Rather, it retained jurisdiction only if the settlement was not

consummated. The Court is without jurisdiction to enforce a breach of a settlement agreement consummated over three years ago. Moreover, it appears the original matter was settled before proper service of the Complaint and filing of proof of service, and thus before this Court had acquired jurisdiction. Accordingly, this matter remains closed.

Defendants may file a new action and deliver an application for an order to show cause with temporary restraints to the Clerk in accordance with L.Civ.R. 65.1.

The Clerk of the Court shall administratively terminate Docket No. 5.

IT IS SO ORDERED

/s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.